HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Saturday, May 06, 2017
85th Legislature, Number 65
The House convenes at 9 a.m.
Part One

Nineteen bills and one joint resolution set for second-reading consideration on today's daily calendar are analyzed or digested in Part One of today's *Daily Floor Report*. They are listed on the following page.

Dwayne Bohac
Chairman
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HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Saturday, May 06, 2017
85th Legislature, Number 65
Part 1

SUBJECT: Constitutional amendment revising home equity loan provisions

COMMITTEE: Investments and Financial Services — committee substitute recommended

VOTE: 7 ayes — Parker, Stephenson, Burrows, Dean, Holland, E. Johnson, Longoria

0 nays

WITNESSES: For — Burt Solomons, Texas Association of Realtors; (*Registered, but did not testify*: Stephen Scurlock, Independent Bankers Association of Texas; David Emerick, JPMorgan Chase; Randy Lee, Stewart Title Guaranty Company; Julia Parenteau, Texas Association of Realtors; Celeste Embrey, Texas Bankers Association; Jeff Huffman, Texas Credit Union Association; Jim Reaves, Texas Farm Bureau; Allen Place, Texas Land Title Association; John Fleming and Mark Raskin, Texas Mortgage Bankers Association)

Against — Robert Doggett; Robert "Chip" Lane

BACKGROUND: Home equity lending in Texas is governed by Texas Constitution, Art. 16, sec. 50(a)(6). There are numerous provisions governing home equity loans in the Constitution. Under Art. 16, sec. 50(a)(6)(B), the outstanding principal on all debt secured by a home cannot exceed 80 percent of a home's fair market value.

Fee cap. Fees to originate, evaluate, maintain, record, insure, and service home equity loans are capped at 3 percent.

Refinancing. Home equity loans can be refinanced only as another home equity loan or a reverse mortgage.

Agricultural homesteads. Home equity loans may not be secured by homesteads designated for agricultural use, except for homesteads used for milk production.

Home equity lines of credit. A home equity line of credit is a form of

open-ended account that borrowers can debit from time to time. With a home equity line of credit, borrowers can take out a loan and then draw, repay, and reborrow money. There are numerous conditions on these loans, including requiring all advances to be at least $4,000 and prohibiting the use of a credit or debit card to obtain an advance. Home equity lines of credit are held to the requirement of all home equity loans that the principal amount borrowed when added to the total outstanding principal balance on all debt secured by the home cannot exceed 80 percent of the home's fair market value. In addition, no advances may be taken on a line-of-credit loan if the outstanding principal exceeds 50 percent of the home's fair market value.

DIGEST:

CSHJR 99 would amend the Texas Constitution to revise the cap on fees that can be charged when making a home equity loan, allow the refinancing of home equity loans into non-home equity loans, repeal a prohibition on home equity loans for most agricultural homesteads, revise a provision governing home equity lines of credit, and amend the list of approved lenders.

Fee cap. CSHJR 99 would lower the cap on fees that can be charged to borrowers and would revise what type of fees count toward the cap. The cap on fees would be lowered from 3 percent to 2 percent of the principal of the loan. The following would be excluded from the calculation of the fee cap:

- appraisals done by third party appraisers;
- property surveys by state registered or licensed surveyors;
- state base premiums for title insurance with endorsements; and
- a title examination report if its cost is less than the state base premiums for title insurance without endorsements.

Refinancing. CSHJR 99 would allow home equity loans to be refinanced as non-home equity loans and secured with a lien against a home, if certain conditions were met. The refinancing would have to:

- occur at least a year after the home equity loan was closed;
- not include additional funds other than ones to refinance another

type of debt outlined in the Constitution and costs and reserves required by the lender to refinance the debt; and

- be of an amount that, when added to the total outstanding principal balances of other indebtedness secured by encumbrances against the home, was not more than 80 percent of the fair market value of the home.

In addition, the lender would be required tot give the owner a written notice, reproduced in the Constitution, within three business days of a loan application being submitted and at least 12 days before the loan is closed. The written notice lists the differences between home equity and non-home equity loans.

Home equity lines of credit. CSHJR 99 would repeal a current restriction on home equity lines of credit which prohibits additional advances on a loan from being made if the principal amount outstanding exceeds 50 percent of the fair market value of the homestead.

Agricultural homesteads. CSHJR 99 would repeal a prohibition on home equity loans for homesteads designated for agricultural use.

Approved lenders. The current list of entities that can make home equity loans would be expanded to include subsidiaries of banks, savings and loan associations, savings banks, and credit unions that meet other requirements in the Constitution. Mortgage brokers would be removed from the list and mortgage bankers and mortgage companies would be added.

Changes to notice. CSHJR 99 would make conforming changes to the notice that must be given to borrowers that outline the Constitution's provisions on home equity loans. The notice itself is reproduced in the Constitution.

Ballot language and effective date. The proposed constitutional amendment would be submitted to voters at an election on November 7, 2017. The ballot proposal would read: "The constitutional amendment to

establish a lower amount for expenses that can be charged to a borrower and removing certain financing expense limitations for a home equity loan, establishing certain authorized lenders to make a home equity loan, changing certain options for the refinancing of home equity loans, changing the threshold for an advance of a home equity line of credit, and allowing home equity loans on agricultural homesteads."

If approved by voters, the amendment would take effect January 1, 2018. Changes would apply only to loans made on or after that date and to existing loans that are refinanced on or after that date.

SUPPORTERS SAY:

CSHJR 99 would adjust the state's home equity lending framework to help make loans more accessible, lower costs for borrowers, and give consumers more choice. The proposed amendment would be consistent with the goal of protecting consumers within a stable housing market that Texas set when it developed home-equity loans.

Fee cap. CSHJR 99 would balance consumer protection with an appropriate standard for lenders by lowering the ceiling on fees that can be charged and removing certain fees from the calculation of the cap. These changes would address problems that have surfaced, especially for loans around $100,000 and those in rural areas. It can be difficult for lenders to put together a loan under the fee cap, resulting in some being reluctant to make such loans.

The fee cap was designed as a check against lenders imposing excessive fees, and CSHJR 99 would continue that consumer protection. The fees that would be excluded from the cap come from third parties and do not go to lenders, including ones for appraisals, surveys, title insurance, and title examination reports. If these were excluded and the cap was lowered, consumers would continue to be protected against extreme fees from lenders, and lenders would be held to a reasonable standard that ensured they could offer such loans.

Refinancing. CSHJR 99 would increase consumer choice by allowing the refinancing of home equity loans into non-home equity loans, something currently prohibited. If consumers want to combine a home equity loan with a purchase money loan, perhaps to get a lower interest rate on the

total amount borrowed and have one payment, that option should be available. The proposed amendment would establish reasonable parameters on such refinances, including requiring at least a year to pass before a home equity loan could be refinanced as a non-home equity loan, not allowing cash advances, and keeping the standard limit used for home equity loans so that the total amount the homeowner had borrowed could not exceed 80 percent of the home's value.

CSHJR 99 would require that consumers receive a notice that clearly explained the difference in the two types of loans so that they could make an informed choice. The notice would ensure that borrowers were especially aware of two important differences between these loan types by including a statement that the new loan would permit lenders to foreclose without a court order and that lenders would have recourse against other assets. This full knowledge of the conditions of each type of loan would help protect borrowers from any aggressive lending practices. Refinanced loans would be under the same regulations as any non-home equity loans with which the borrower would be familiar.

Home equity lines of credit. The proposed amendment would repeal an unnecessary restriction on home equity lines of credit, which has resulted in consumers being unable to access funds for which they had been approved. In such instances, owners must repay funds in order to access the remaining line of credit. This can result in consumers taking out larger loans sooner than they would like and paying more interest.

CSHJR 99 would eliminate the 50 percent limit on the amount that can be outstanding before making additional withdrawals, but lines of credit would continue to be covered by provisions that limit loans to 80 percent of fair market value. This would make conditions on lines of credit consistent with regular home equity loans, while continuing the same protections with these loans.

Agricultural homesteads. CSHJR 99 would allow home equity loans to be made on agricultural homesteads to give these consumers the same choice as other Texans. The original home equity laws broadly prohibited such loans, but there have been no problems in the more than 20 years of home equity lending in Texas that would support continuing a prohibition

on loans to one class of homesteads. In addition to shutting owners of larger farms and ranches out from home equity loans, the current prohibition keeps smaller, hobby agricultural homesteads from having the option of taking out home equity loans. All of the current consumer protections would continue to cover these loans.

Approved lenders. CSHJR 99 would update the types of approved lenders that can make home equity loans by including subsidiaries of entities that already can make the loans, including banks, savings and loan associations, savings banks, and credit unions. The bill also would update language relating to those in the mortgage industry by eliminating an obsolete term and including mortgage bankers and mortgage companies. All of the lenders that would be added by CSHJR 99 are highly regulated and would be held to the same standards as those who make the loans now.

OPPONENTS SAY:

CSHJR 99 would raise costs for borrowers and would roll back important consumer protections. These protections have worked for consumers and lenders and contributed to a stable housing market that was not as seriously affected by the recent housing bubble as other states.

Fee cap. CSHJR 99's changes to the fee cap would raise, not lower, costs for consumers and could create incentives to lenders to make loans. While the bill would lower the overall cap, it also would exclude major charges from the cap calculation. Borrowers would continue to pay these charges for appraisals, surveys, title insurance, or title examination reports. Lenders would then have room under the cap to raise or add upfront fees. Taken together, the costs to borrowers could easily be higher than current costs under the 3 percent cap. Higher fees going to lenders could incentivize the approval of loans by originators interested in the fees. To protect against predatory lending practices, the focus for lenders should be not only on the fees but on home equity loans as a package, with fees, interest rate, and consumer protections taken into consideration.

Refinancing. Allowing home equity loans to be refinanced as non-home equity loans would be counter to the ideas and protections embedded in the Texas home equity laws. These laws deliberately encompassed the idea of "once-a-home-equity-loan, always-a-home-equity-loan" so that

homeowners who borrowed against the equity in their homes would have certain protections.

Consumers would lose important protections if home equity loans were refinanced as non-home equity loans. These protections include requiring judicial foreclosure on home equity loans and making home equity loans non-recourse so that a borrower's other assets are not at risk in a default. Requiring judicial foreclosure is especially important as it ensures the involvement of a court and that homeowners are afforded certain rights in the foreclosure process. Allowing this type of refinancing also could give lenders incentives to push the refinancing of loans both to earn the fees and to bring a loan out from under the protections given to home equity borrowers.

Home equity loan borrowers interested in refinancing their loans already can do so with a new home equity loan that carries with it all the protections, and this would be a better option than the change proposed by CSHJR 99.

NOTES:

A companion resolution, SJR 60 by Hancock, was approved by the Senate on April 20 and has been reported favorably by the House Investments and Financial Services Committee.

According to the fiscal note, the cost to publish the resolution would be $114,369.

SUBJECT: Modifying public retirement systems in the City of Houston

COMMITTEE: Pensions — committee substitute recommended

VOTE: 6 ayes — Flynn, Anchia, Hefner, Huberty, Paul, J. Rodriguez

1 nay — Alonzo

WITNESSES: For — Kelly Dowe, Ronald Lewis, and Sylvester Turner, City of Houston; Chris Brown, City of Houston Controller's Office; Marc Watts, Greater Houston Partnership; Melvin Hughes, Houston Organization of Public Employees (HOPE) Local 123; David Long, Sherry Mose, and Erin Perales, Houston Municipal Employees Pension System; Terry Bratton and John Lawson, Houston Police Officers Pension System; Ray Hunt, Houston Police Officers' Union; Bill Elkin, Houston Police Retired Officers Association; (*Registered, but did not testify*: Roy Sanchez, AFSCME and Houston Organization of Public Employees (HOPE) Local 123; Robert Wofford, City of Houston; Michael Nieto and Jessie Trevino, Houston Fire Department, Shyamal Bhattacharya, Lloyd Deboest, Arthur Eason, Earnest Gatson, Anselmo Guillen, Gary Hill, Lutricia Hughes, Andrew Jones, Eugene Kelly, Timothy Leblanc, Robert Mayfield, Michael Sanderson, Darrell Stamps, Esque Strambler, Jere Talley, Cherrie Thomas, Daniel Tucker, Gregory Williams, Jeffrey Wilson, and James Young, Houston Organization of Public Employees (HOPE) Local 123; Anthony Kivela, Houston Police Retired Officers Association; and 27 individuals)

Against — Karen Buschardt, Eddie Cruz, Tommy Lummus, Chester Payne, Fernando Pedraza, Jacob Sandlin, John Smith, Michael Smith, and Jerry Stansel, Houston Fire Department; David Keller and Mike Shaunessy, Houston Firefighters' Relief and Retirement Fund; Ralph Marsh, Houston Firefighters Pension; Craig Moreau, Firefighters Pension; Andy Taylor, Firefighters Pension Fund; William Barry, Brannon Hershey, Larry Hunter, Richard Irwin, Richard Taylor, and Steve Williams, Houston Retired Firefighters Association; James Quintero, Texas Public Policy Foundation; and 26 individuals; (*Registered, but did not testify*: Chris Reyna, Houston Fire Department Union; Anthony

Abbott, Debbi Abbott, Nicholas Abbott, Gabriel Aleman, Terry Amaro, Vincent Amore, Jeff Ardley, Steven Alaniz, Scott Artze, Michael Bailey, Alec Beard, Richard Beddingfield, Javier Benavides, Richard Berlanga, Emmett Blair, David Bond, Kyle Bornowski, Willie Braxton, Stacy Broadrick, Steve Brooks, Paul Brown, Travis Buck, Karen Byrd, Michael Byrd, Robert Campbell, Kim Cash, William Cassidy, Ruth Castaneda, Charles Castaneda, Paul Chalk, Greg Chelette, Aaron Clark, Dana Cline, Terry Colburn, James Cooney, Dennis Cox, Robert Coker, Eileen Connelly, Dustin Dauzat, Jason Danvir, Robert Davis, Charles Davis, Anthony Delgado, Damon Doherty, Daryl Dornak, Abdias Dorville, Tim Drews, Warren Ducote, Mike Eckhardt, Shea Elliott, Barry Edwards, Troy Feild, Kevin Fleming, Joseph Flores, Robert Franco, Michael Fuentes, Scott Fults, Chris Garcia, Javier Garza, Raymond Gates, Al Goebel, Tyler Graef, Rock Graham, Carter Green, Russell Harris, Curtis Hail, Douglas Harrison, Jesse Hernandez, Davin Heitmeyer, Lennie Higgins, William Hillyard, Eric Hobbs, Jason Horner, Patrick Horton, Jeff Jackson, Renee Jahnke, Robert Johnson, Ricky Johnson, Nicholas Johnson, Christopher Jouett, Mark Jozwiak, Billy Kallies, Chris Kelly, Tracey Kincade, Megan Kinsey, Ronald Krusleski, Charles Landeche, Larry Landriault, Terry Lawson, John Leon, Brandon Lewis, Clay Lindberg, Adam Lopez, Philbert Lopez Jr., Philbert Lopez Sr., Jeff Lundquist, John Malpass, Mark Martinez, Timothy Mares, Erik Marquez, Jeremy Martinson, Allan Machann, Donald Martin, Suzette Matejowsky, Michael Mathis,Timothy Maywald, Jason McClain, David McDonald, George Meadows, Desmond Miller, Tommy Miller, Jack Mobley, Andrew Morrow, Patrick Nagler, Scott Nichols, Clayton Neal, William Newell, Michael Niemann, Ronald Novak, Alexander O'Desky, Chris Oliver, Glenn Pangarakis, Robert Pecht, Rachel Pfardrescher, Michael Phillips, William Phillips, Timothy Perez, Erik Petocz, Raymond Pooler, Van Postell, Erika Postell, Mark Rives, Darla Reed, Walter Ritchie, William Roberts, James Roman, Henry Russell, Terri Salinas, Luis Sanchez, Larry Schulin, Kenneth Seynaeve, Leonard Silva, Martin Spears, Lisa Stephens, Dane Stewart, Corbin Sterle, Andrew Swanson, Eric Swisher, Michael Scott, Aaron Segura, Tommy Spradlin, Joel Stephens, Joseph Taska, Roderic Taylor, Travis Tolin, Travis Vick, Michael Whitmire, Mark Walker, Jason Wallace, Ryan Wallace, Aaron Ward, Robert Webb, Brandon Westbrook, Matthew Whatley, Robert Wienserski, Lesley Wright, Ken Wright, and Leighton Yaw, Houston Fire Department; Sal Carbajal, Firefighter; Clifton

Langton, Local 341 Active Firefighters; Jeff Laughlin, Local341; Julio Guerrero IV, Robert Hale, Juan Hernandez, Ronnie Koonce, Jonathan Needle, and Terry Seynaeve, Houston Firefighter Relief and Retirement Fund; Anthony Arnt, William Baldy, Guy Barnes, Charles Bell, Glenn Brannon, Lee Christ, David Crawford, Michael Dishman, Ken Dernehl, Mike Franklin, Rafael Gaitan III, Barbara Koger, Bruce Koger, Michael Lane, Howard Livesay, William Morrison, Janis Morrison, John Nance, Victor Pena, Ervin Reeves, Michael Richardson, Nick Salem, Bettye Smith, Michael Stanfield, Lance Stahl, Russell Tucker, Susan Villeneuve, Orlando Valls, Harold Vaughan, Richard Villeneuve, Willard Walden, Richard Wilson, Tommy Woodard, Michael Woodard, Mike Zigal, Houston Retired Firefighters Association; Robin Lennon, Kingwood Tea Party; Terry Hall, Texas Home Group Realtors ; Windi Grimes, Texans for Local Control of Pensions; Joseph Castaneda, San Antonio Fire Department; and about 125 individuals)

On — Christopher Zook, C Club of Houston; Paul Simpson, Harris County Republican Party; Anu Anumeha, Bob May, and Josh McGee, Pension Review Board; (*Registered, but did not testify*: Kenneth Herbold, Pension Review Board)

BACKGROUND: Vernon's Texas Civil Statutes, art. 6243e.2(1) governs the Houston Firefighters' Relief and Retirement Fund. Art. 6243g-4 governs the Houston Police Officer's Pension System. Art. 6243h governs the Houston Municipal Employees Pension System.

DIGEST: CSHB 43 would reduce member benefits, increase member contributions, and determine the City of Houston's contribution rate using a cost control mechanism called the "corridor" to preserve actuarial soundness of the Houston Firefighters' Relief and Retirement Fund (HFRRF), Houston Police Officers' Pension System (HPOPS), and Houston Municipal Employees Retirement System (HMEPS).

Applicable provisions for HFRRF, HPOPS, and HMEPS

The bill would require each pension system to perform several reports and analyses and establish member and city contribution rates.

Risk sharing valuation study. Every year, each fund actuary and municipal actuary separately would produce a risk sharing valuation study (RSVS) and present the findings no later than 150 days after the end of the fiscal year. The bill would require the RSVS to calculate the unfunded actuarial accrued liability and estimate the municipal contribution rate. The bill would establish the process for municipal and fund actuary contribution rates varying by more than two percent. It also would require the fund and city to separately perform an initial RSVS dated as of June 30, 2016, and project the corridor midpoint for 31 fiscal years beginning July 1, 2017.

Corridor. The initial RSVS would set the minimum and maximum contribution rate for the city using a cost management mechanism called the corridor. The bill would provide authority and procedure to make changes to the system if the RSVS estimated municipal contribution was above or below the corridor midpoint. In a decreasing cost environment, gains would be used to accelerate the payoff of unfunded liabilities or reduce the interest rate. In an increasing cost environment, adjustments would be made to the amortization period, employee contributions, or benefits to reduce the city contribution rate.

Actuarial Experience Studies. The bill would require that at least once every four years, the fund actuary conduct an actuarial experience study by September 30. The study would include all assumptions and methods recommended by the fund actuary and summaries of the reconciled actuarial data used in the creation of the actuarial experience study.

Independent investment consultant. The bill would require the pension system boards to hire an independent investment consultant once every three years to produce a report that includes the pension's compliance with its investment policy statement; asset allocation; portfolio structure; investment manager or advisor performance reviews; benchmarks for each asset class; evaluation of fees and trading costs; evaluation of investment in any leverage, foreign exchange, or other hedging transactions; and evaluations of investment-related disclosures in the annual reports or valuations.

Houston Firefighters' Relief and Retirement Fund (HFRRF)

Board authority. The bill would allow the HFRRF board to alter benefit types or amounts, the means of determining contribution rates, or the contribution rates. The bill would prohibit the board from increasing the assumed rate of return above 7 percent per year, extending the amortization period of the liability beyond 30 years, or allowing the city's contributions to be less than the minimum or greater than the maximum city contribution rate.

Member contributions. The bill would increase an active member's contribution rate from 8.35 percent of the member's salary to 10.5 percent.

Municipal contributions. The bill would require the city to contribute at least biweekly to HFRRF an amount equal to the municipal contribution rate, as determined in the RSVS, multiplied by the pensionable payroll for the applicable fiscal year.

Deferred Retirement Option Plan (DROP). The bill would limit the number of years a DROP participant with 20 years of service could participate to 13 years.

Houston Police Officer's Pension System (HPOPS)

Board authority. The bill would allow the HPOPS board to correct any defect, supply any omission, and reconcile any inconsistency in HPOPS. The HPOPS board could not increase the assumed rate of return to more than 7 percent per year, extend the amortization period of the liability beyond 30 years, or allow the city's contributions to be less than the minimum or greater than the maximum city contribution rate.

Member contributions. The bill would increase an active member's contribution rate from 8.75 percent of the member's pay to 10.5 percent.

City contributions. The bill would require the city to contribute at least biweekly to HPOPS an amount equal to the city contribution rate, as determined in the RSVS, multiplied by the pensionable payroll for the applicable fiscal year.

Pension obligation bonds. The bill would allow HPOPS to rescind,

prospectively, any or all benefit changes made effective under the bill, or to reestablish the deadline for delivering the pension obligation bond proceeds totaling $750 million, if the city failed to deliver the proceeds by January 2, 2018. The issuance of pension obligation bonds would not require voter approval by the city.

Deferred Retirement Option Plan (DROP). The bill would cap the maximum number of years an active member could participate in DROP to 20 years. Cost of living adjustments (COLAs) occurring after the bill's 2017 effective date would not be credited to a member's DROP account.

Houston Municipal Employees Pension System (HMEPS)

Board authority. The HMEPS board could not increase the assumed rate of return to more than 7 percent per year, extend the amortization period of the liability beyond 30 years, or allow the city's contributions to be less than the minimum or greater than the maximum city contribution rate.

Member contributions. The bill would set the group A member contribution rate to 7 percent of the member's salary on or after the 2017 effective date and to 8 percent of the member's salary on or after July 1, 2018. The bill would set the group B member contribution rate to 2 percent of the member's salary on or after the 2017 effective date and to 4 percent of the member's salary on or after July 1, 2018. The bill would set the group D member contribution rate to 2 percent of the member's salary on or after the 2017 effective date, in addition to 1 percent of the member's salary that would be credited to the member's cash balance account on or after January 1, 2018.

City contributions. The bill would require the city to contribute at least biweekly to HMEPS an amount equal to the city contribution rate, as determined in the RSVS, multiplied by the pensionable payroll for the applicable fiscal year.

Pension obligation bonds. The bill would allow HMEPS to rescind, prospectively, any or all benefit changes made effective under the bill, or to reestablish the deadline for delivering the pension obligation bond proceeds totaling $250 million, if the city failed to deliver the proceeds on

or before January 2, 2018. The issuance of pension obligation bonds would not require voter approval by the city.

Deferred Retirement Option Plan (DROP). The bill would require members who wanted to participate in DROP to meet normal retirement eligibility requirements, unless the member met the eligibility requirements before January 1, 2005. Members also would qualify for DROP if they had five years of service before January 1, 2005, and the sum of the member's years of service and age in years was at least 68.

Starting January 1, 2018, the HMEPS board would have to establish an interest rate between 2.5 percent and 7.5 percent for DROP accounts. The bill would order a DROP participant to pay required contributions to HMEPS for all the time in DROP that otherwise would constitute service to receive credit to the DROP account.

Effective date. This bill would take effect July 1, 2017 if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUPPORTERS SAY:

CSHB 43 would establish a sustainable solution for the Houston Firefighters' Relief and Retirement Fund (HFRRF), Houston Police Officer's Retirement System (HPOPS), and the Houston Municipal Employees Retirement System (HMEPS), which have billions of dollars in unfunded liabilities.

Increasing the retirement age and decreasing benefits are necessary for restoring the pension systems' actuarial soundness and paying off billions of dollars in unfunded liabilities.

Switching to a defined contribution system for new employees would provide no fiscal relief to the City of Houston for decades. The city needs immediate relief to avoid layoffs and service cuts. Switching to a defined contribution system also could trigger mass retirements, which would jeopardize public safety.

OPPONENTS SAY:

CSHB 43 significantly would decrease retirement benefits for current and former employees. Cost of living adjustments (COLAs) help offset

increased costs, such as employees' health insurance coverage. Reducing retirement benefits and suspending COLAs for certain pension system members would increase the financial burden on members' families. Spouses and dependent children of fallen police officers and firefighters in the line of duty rely on survivor benefits for their family's economic stability.

OTHER OPPONENTS SAY:

CSHB 43 also should include a pathway to a defined contribution plan for new employees in the three pension systems.

NOTES:

According to the Legislative Budget Board's fiscal note, the City of Houston estimates the required contribution to the pension systems in fiscal 2018 would be $704.6 million without legislative changes and $381.4 million with legislative changes and pension obligation bonds (POBs) issued. The debt service in fiscal 2018 for POBs would be $25.5 million.

SUBJECT: Creating the offense of intimidation by a member of a criminal street gang

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Moody, Canales, Gervin-Hawkins, Hefner, Lang, Wilson

0 nays

1 absent — Hunter

WITNESSES: For — William M. Knox; (*Registered, but did not testify*: Chris Jones, Combined Law Enforcement Associations of Texas (CLEAT); James Jones, San Antonio Police Department; Ricky Scaman, Sheriffs' Association of Texas; Thomas Parkinson)

Against — (*Registered, but did not testify*: Shea Place, Texas Criminal Defense Lawyers Association)

On — (*Registered, but did not testify*: Manuel Espinosa, Texas Department of Public Safety)

BACKGROUND: Concerns have been raised that members of criminal street gangs may seek to coerce individuals through implied threats of violence, which can be more difficult to prosecute or deter than explicit statements or actions.

DIGEST: HB 731 would create the offense of intimidation by a gang member. A member of a criminal gang would commit the offense if the person, with the intent to cause another person to perform or to omit the performance of any act, communicated to the other person, directly or indirectly, by any means, a threat to:

- inflict bodily injury on the person threatened or someone else;
- damage or destroy property;
- subject anyone to physical confinement or restraint; or
- commit a class A misdemeanor offense or more serious offense.

The offense would be a third-degree felony (two to 10 years in prison and

an optional fine of up to $10,000).

The bill would take effect September 1, 2017.

SUBJECT: Authorizing fees and costs related to animal cruelty court proceedings

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Smithee, Farrar, Gutierrez, Hernandez, Laubenberg, Murr, Neave, Rinaldi, Schofield

0 nays

WITNESSES: For — Laura Donahue, Texas Humane Legislation Network; (*Registered, but did not testify*: Donna Warndof, Harris County Commissioners Court; John Dahill, Texas Conference of Urban Counties; Rick Thompson, Texas Association of Counties; Katie Jarl, The Humane Society of the United States; Deece Eckstein, Travis County Commissioners Court; Rob Block; Thomas Parkinson)

Against — Emily Gerrick, Texas Fair Defense Project (*Registered, but did not testify*: Gib Lewis, Exotic Wildlife Association, Responsible Pet Owners Alliance)

BACKGROUND: Health and Safety Code, sec. 821.023(e) mandates that a court require an individual found guilty of animal cruelty to pay all court costs and costs incurred by a municipality or county animal shelter or nonprofit animal welfare organization in housing or euthanizing an animal.

Sec. 821.025 establishes the process and requirements for defendants to appeal a case of animal cruelty.

DIGEST: CSHB 748 would allow a court to order an animal owner found guilty of animal cruelty in a county or municipality with a population of at least 700,000 to pay the county's or municipality's attorney fees, in addition to other costs required by current statute.

The bill also would allow a county court or county court at law that issued a decision in an appeal of an animal cruelty case in a county or municipality with a population of at least 700,000 to order an owner found guilty to pay the county's or municipality's attorney's fees and court costs.

The bill would take effect September 1, 2017, and would apply only to court proceedings beginning on or after the bill's effective date.

SUPPORTERS SAY:

CSHB 748 would establish a more cost-effective method for counties and municipalities to enforce animal cruelty laws and prevent animal cruelty by allowing them to recover attorney's fees. The bill would not unfairly burden low-income individuals convicted of animal cruelty because these defendants can set up monthly payment plans to manage costs imposed on them. Courts already work to negotiate costs in cases of financial difficulty, and the court would have full discretion in requiring the payment of attorney's fees.

OPPONENTS SAY:

Laws requiring people convicted of crimes to pay court costs and attorney's fees fall particularly hard on low-income individuals, whose financial stability may already be at risk. CSHB 748 especially would create an unfair situation for low-income individuals facing a class C misdemeanor (maximum fine of $500), as they would be required to pay prosecutor costs while the state would not be required to provide them with indigent defense.

SUBJECT: Creating the Electric Grid Security Advisory Committee

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 11 ayes — Cook, Giddings, Craddick, Farrar, Guillen, K. King, Kuempel, Meyer, Paddie, E. Rodriguez, Smithee

0 nays

2 absent — Geren, Oliveira

WITNESSES: For — Tom Glass, Protect the Texas Grid; Thomas Brocato, Steering Committee of Cities Served by Oncor and TCAP; Donald A. Loucks; (*Registered, but did not testify*: Adam Cahn, Cahnman's Musings; Ann Hettinger, Center for the Preservation of American Ideals; William Scott, Exelon Generation; Parker McCollough, NRG Energy, Inc.; Brent Chaney, Vistra Energy, TXU Energy, Luminant; Cindy Asmussen; Trayce Bradford; Ken Clark; Dana Hodges)

Against — None

On — Julia Rathgeber, Association of Electric Companies of Texas; Phillip Oldham, Texas Association of Manufacturers; (*Registered, but did not testify*: Dan Woodfin, Electric Reliability Council of Texas; Brian Lloyd, Public Utility Commission; Nim Kidd, TxDPS-TDEM)

BACKGROUND: Concerns have been raised about the vulnerability of Texas' electric grid to cybersecurity threats and electromagnetic pulses generated from either a severe act of nature or a manmade attack. Given the unique condition that Texas is primarily on its own electric grid, some contend that it is necessary to assess the current state of the grid and make improvements to address any potential threat to public safety.

DIGEST: CSHB 787 would create the Electric Grid Security Advisory Committee to study electric utility facilities located in the Electric Reliability Council of Texas (ERCOT) power region and their vulnerability to electromagnetic pulse and cybersecurity threats.

Membership. The governor would appoint to the committee eight members that have certain professional experience and technical training. Four members would study electromagnetic pulse threats, and four would study cybersecurity. The governor would be required to appoint the members within 120 days after the effective date of the bill.

The committee would be required to convene at the call of the designated presiding officer. A member would not be entitled to compensation but would be entitled to reimbursement for travel expenses as provided by law.

Duties. The study would have to:

- evaluate and summarize the current state of the electric grid and associated computer systems and networks;
- consider potential security threats;
- assess whether further efforts were needed to secure the electric grid and associated computer systems against certain natural and manmade threats and recommend measures to protect the grid; and
- develop a strategy to protect and prepare critical infrastructure in the ERCOT region against threats.

ERCOT would be required to cooperate with the committee and provide any relevant information. The committee could use research and data on electromagnetic pulse threats and cybersecurity gathered by the Electric Power Research Institute.

Report. A report of the committee's findings, including any recommendations for legislation, would be submitted to the governor by December 1, 2018.

Applicable law. The committee would not be subject to laws governing state agency advisory committees.

The committee's meetings, work, and findings would not be subject to laws governing open meetings or public information. Each member would be required to sign a nondisclosure agreement stating that the member

would not disclose to the public any sensitive or identifiable information related to grid security measures or plans.

Information related to grid security. An independent organization established by a power region would be required to collect and compile information related to the security of the electric grid. This information would be confidential and not subject to disclosure under public information laws.

Date committee abolished. The Electric Grid Security Advisory Committee would be abolished December 31, 2018.

Effective date. This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUBJECT: Creating a statewide court document electronic database

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Smithee, Farrar, Gutierrez, Hernandez, Laubenberg, Murr, Neave, Schofield

1 nay — Rinaldi

WITNESSES: For — Sharena Gilliland, Teresa Kiel, and Sheri Woodfin, County and District Clerks Association of Texas; Chris Daniel and Tracy Hopper, Harris County District Clerk; Christie Moreno, Idocket.com; (*Registered, but did not testify*: Travis Banks, Bexar County District Clerk's Office; Gina Ferguson, Brazoria County Clerk; James Oakley, Burnet County; Celeste Bichsel, Carter Casteel, Sherry Dowd, Marc Hamlin, Laura Hinojosa, Joyce Hudman, Jennifer Lindenzweig, Angelia Orr, Cary Roberts, Kara Sands, Joshua Tackett, Caroline Woodburn, County and District Clerks Association of Texas; Jim Allison, County Judges and Commissioners Association of Texas; Melissa Shannon, County of Bexar Commissioners Court; Charles Reed, Dallas County Commissioners Court; Ed Johnson, Harris County Clerk's Office; Robert Nolen, Harris County District Clerk; Bill Gravell, Bobby Gutierrez, Carlos Lopez, Wayne Mack, Jama Pantel, Margaret Sawyer, and Andrea Schiele, Justice of the Peace and Constables Association of Texas; AJ Louderback, Sheriffs' Association of Texas; Mark Mendez, Tarrant County; Nanette Forbes, Texas Association of Counties; Donald Lee, Texas Conference of Urban Counties; Deece Eckstein, Travis County Commissioners Court; and five individuals)

Against —Madison Venza, Courthouse News Service; Lisa Hobbs; (*Registered, but did not testify*: Kelley Shannon, Freedom of Information Foundation of Texas; Katherine Davidson)

On — Rebecca Simmons, Judicial Committee on Information Technology; David Slayton, Office of Court Administration; Aaron Day, Texas Land Title Association

DIGEST:

CSHB 1258 would allow the Supreme Court to authorize the Office of Court Administration (OCA) to establish, operate, and maintain a state court document database and would make the database accessible to the public if certain conditions were met.

The database could only include court documents filed with a court no sooner than 60 days following the date when OCA certified that the database was operational and in compliance with the bill's provisions and any other documents authorized by the court clerk to be maintained in the database.

OCA would be required to collect a fee, set by the Supreme Court after consultation with court clerks, for each page electronically accessed by the public. The fee would be delivered to the clerk of the court in which the document was originally filed for deposit in the county general fund.

A person who administered the state court document database for the Supreme Court could allow the public to access a document filed in the court's database only if the database maintained each document in a manner that complied with state and federal laws and any court orders relating to confidentiality and nondisclosure, and if each copy of a page stored in the database was clearly labeled as an unofficial copy of a court document. The administrator also would be required to comply with laws, rules and court orders related to sensitive data and confidential documents that governed court documents in the custody of a court clerk.

Court clerks would not be responsible for the management or removal of documents from the database, and would not be liable for damages resulting from the release of court documents if the clerks performed their duties in good faith by exhibiting conduct in the manner of a reasonably prudent clerk under similar circumstances.

The bill would require the Department of Public Safety to send all relevant criminal record information contained in an order of nondisclosure to OCA and would require a court clerk to send a certified copy of a final order of expunction of criminal records to OCA.

The Supreme Court would be required to adopt rules, fees and orders

related to the bill's provisions by December 1, 2017.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUPPORTERS SAY:

CSHB 1258 would allow the public to quickly acquire documents online instead of having to physically visit a courthouse, increasing transparency and access. Currently, if an attorney or member of the public needs court documents, they must go to the courthouse of each relevant court to acquire them. The database would enable lawyers and the public to do a broad search for cases across the state without having to travel.

The bill would include provisions to protect sensitive data and confidential records, ensuring that information was not published online until after it had been redacted or marked. Clerks would remain an important safeguard, as they would still be required to review and accept documents filed with them. Documents would not enter the database until they had been processed by the clerk.

The bill could increase revenue for courthouses because more individuals would be able to access documents and subsequently pay the associated fees.

OPPONENTS SAY:

CSHB 1258 could put people at risk of having their confidential information released on the internet. Once confidential information is posted online, it can become widely accessible and difficult to remove, which can have serious negative consequences for the individual whose information was released.

The bill also would cost counties money to pay for the software used by the Supreme Court's database without providing any funding to defray this expense.

SUBJECT: Providing notice of self-help resources on court websites

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Smithee, Farrar, Gutierrez, Hernandez, Laubenberg, Murr, Neave, Rinaldi, Schofield

0 nays

WITNESSES: For — Brett Merfish, Texas Appleseed; (*Registered, but did not testify*: Trish McAllister, Texas Access to Justice Commission; Craig Hopper)

Against — None

On — David Slayton, Office of Court Administration; (*Registered, but did not testify*: Dale Propp, State Law Library)

BACKGROUND: Observers have noted that resources for people who either cannot afford legal services or do not qualify for free legal services are scarce, and that individuals representing themselves in court can have difficulty accessing consistent, reliable legal information.

DIGEST: CSHB 1532 would require the clerk of each court in Texas that maintains a website to post a link to the self-help resources website designated by the Office of Court Administration (OCA), in consultation with the Texas Access to Justice Commission, that contains:

- lawyer referral services;
- the name, location and website address of local legal aid offices; and
- any court-affiliated self-help center serving the county where the court was located.

The court's website also would be required to have a link to the State Law Library's website.

The bill would require clerks to conspicuously display a sign in their

offices containing the information described above. The OCA would prescribe the format for providing the information on the sign and online.

The bill would take effect September, 1, 2017.

NOTES:

A companion bill, SB 1911 by Zaffirini, was approved by the Senate on April 26.

SUBJECT: Ensuring standard royalty reporting information accompanies a payment

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 12 ayes — Darby, C. Anderson, G. Bonnen, Canales, Clardy, Craddick, Guerra, Isaac, Lambert, Landgraf, Schubert, Walle

0 nays

1 absent — P. King

WITNESSES: For —Tom Daniel, Texas Land & Mineral Owners Association; Ross Smith; (*Registered, but did not testify*: Mark Harmon, Chesapeake Energy; Julie Williams, Chevron; Stan Casey, Concho Resources; Teddy Carter, Devon Energy; Julie Moore, Occidental Petroleum; Ben Shepperd, Permian Basin Petroleum Association; Lindsey Miller, Texas Independent Producers and Royalty Owners Association; Laura Buchanan, Texas Land & Mineral Owners Association; Mari Ruckel, Texas Oil and Gas Association; Tricia Davis, Texas Royalty Council)

Against — (*Registered, but did not testify*: Paula Barnett, BP America)

On — (*Registered, but did not testify*: Bill Stevens, Texas Alliance of Energy Producers)

BACKGROUND: Natural Resources Code, ch. 91, subch. L describes the royalty reporting standards a payor must follow. If a payment is made to a royalty interest owner from proceeds derived from the sale of oil and gas production pursuant to a division order, lease, servitude, or other agreement, the payor must include specific information listed in sec. 91.502 on the check stub, an attachment to the payment form, or another remittance advice. An exemption from this requirement exists if the information required by sec. 91.502 is provided in some other manner on a monthly basis.

Observers have noted that several payors of proceeds derived from the sale of oil and gas production have opted to use an online service to provide standard royalty reporting information to royalty interest owners.

Some owners have security concerns and do not want to access this information online.

DIGEST:

CSHB 129 would not allow a payor paying an owner by paper check to include the information required by Natural Resources Code, sec. 91.502 in a manner other than by including it on the check stub, an attachment to the payment form, or another remittance advice that accompanied the payment. A payor could use a different manner only if the payor obtained the written consent of the owner.

A payor choosing to include the required information on a remittance advice would have to ensure that the remittance advice accompanied the payment.

This bill would take effect September 1, 2017.

SUBJECT: Specifying state entity liability in workers' compensation proceedings

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 7 ayes — Oliveira, Shine, Collier, Romero, Stickland, Villalba, Workman

0 nays

WITNESSES: For — Chris Jones, Combined Law Enforcement Associations of Texas (CLEAT); (*Registered, but did not testify*: Kenneth Casaday, Austin Police Association; TJ Patterson, City of Fort Worth; Todd Harrison, Combined Law Enforcement Associations of Texas; Jimmy Rodriguez, San Antonio Police Officers Association; Glenn Deshields, Texas State Association of Fire Fighters; Noel Johnson, Texas Municipal Police Association (TMPA))

Against — (*Registered, but did not testify*: Tom Tagliabue, City of Corpus Christi; Jesse Ozuna, Mayor's Office, City of Houston; Julie Wheeler, Travis County Commissioners Court)

On — (*Registered, but did not testify*: Stephen Vollbrecht, State Office of Risk Management; Amy Lee, Texas Department of Insurance, Division of Workers' Compensation)

BACKGROUND: Labor Code, ch. 415 governs penalties for administrative violations of the Texas Workers' Compensation Act.

Sec. 504.053 requires self-insured political subdivisions to provide workers' compensation medical benefits to injured employees. However, subsection (e) specifies that this requirement does not waive a political subdivision's right to sovereign immunity.

Some observers suggest that although governmental entities are responsible for adhering to workers' compensation law, some have used the doctrine of sovereign immunity, which protects government entities from being sued, to avoid sanctions and penalties for noncompliance.

DIGEST:

HB 1689 would specify that self-insuring political subdivisions and the State Office of Risk Management could be sued for violations of the Texas Workers' Compensation Act for remedies including sanctions and administrative penalties.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017. The bill would apply only to an administrative violation occurring on or after the effective date.

SUBJECT: Designating a liaison for first responders in workers' compensation cases

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 6 ayes — Oliveira, Shine, Collier, Romero, Villalba, Workman

1 nay — Stickland

WITNESSES: For — Chris Jones, Combined Law Enforcement Associations of Texas (CLEAT); Mary Duncan, Crime Victim Coalition; Mitch Landry, Texas Municipal Police Association (TMPA); Tommy Duncan; Jacob Flores; Susan Marshall; Carlton Marshall; Jessica Scherlen; (*Registered, but did not testify*: Randy Moreno, Austin Firefighters; Todd Harrison, Combined Law Enforcement Associations of Texas (CLEAT); Jimmy Rodriguez, San Antonio Police Officers Association; Glenn Deshields, Texas State Association of Fire Fighters; Robert Abbott, Travis County ESD 6; Paul Bogan, Williamson County Deputies Association; Chris Orton; Thomas Parkinson)

Against — None

On — Jessica Barta, Office of Injured Employee Counsel; Amy Lee, Texas Department of Insurance, Division of Workers' Compensation

BACKGROUND: Labor Code, sec. 404.151 requires the Office of Injured Employee Counsel to maintain an ombudsman program providing assistance to injured employees and death benefit claimants in navigating workers' compensation claims. An ombudsman is required to meet with injured employees and unrepresented claimants, investigate complaints, and communicate with employers, carriers, and providers.

Sec. 404.051 requires the governor, with the advice and consent of the Senate, to appoint an injured employee public counsel.

DIGEST: HB 2082 would require the injured employee public counsel appointed by the governor to designate an employee of the Office of Injured Employee Counsel as a first responder liaison. The liaison would be required to

assist an injured first responder and the first responder’s ombudsman during workers' compensation dispute resolution.

The first responder liaison would have to qualify for designation as an ombudsman, including meeting training and education requirements.

The bill also would require employers with first responder employees to notify these employees of the first responder liaison.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

HB 2082 would make the workers' compensation dispute resolution process faster and more efficient for first responders by ensuring access to specialized legal advice. First responders and their ombudsmen currently may be unaware of the unique laws regulating first responder workers' compensation. Providing a qualified liaison would guarantee that first responders were informed about their options.

The bill would signal clearly that Texas respects its first responders, who endanger themselves daily to protect the security and welfare of the public. When first responders sustain injuries in service of the public interest, their burden to receive the care they need should be as light as possible.

Concerns about potential favoritism should be weighed against the real and unique public safety risks involved when first responders are injured. When first responders are denied the treatment they need to return quickly to work, police departments and fire stations become short-staffed, creating a danger to responders who lose protective backup and to the general public. By expediting the workers' compensation dispute process for first responders, the bill would mitigate these public safety risks and ensure that the state was getting help to those who perform a vital service.

OPPONENTS SAY:

HB 2082 would be an example of bureaucratic favoritism that creates a special class within an overly complex system instead of reforming the system itself. First responders already are afforded special treatment in workers' compensation disputes, and the state should not widen the gap between their access to benefits and the access afforded to the general

public.

NOTES: A companion bill, SB 1036 by Perry, was referred to the Senate Business and Commerce Committee on March 6.

SUBJECT: Amending civil suit procedures for violations against TCEQ rules

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 9 ayes — Larson, Phelan, Ashby, Burns, Frank, Kacal, T. King, Price, Workman

1 nays — Lucio

1 absent — Nevárez

WITNESSES: For — Stephen Minick, Texas Association of Business; Nelson Roach, TTLA; (*Registered, but did not testify*: Adrian Acevedo, Anadarko Petroleum; Jon Fisher, Associated Builders and Contractors of Texas; Carolyn Brittin, Associated General Contractors, Highway, Heavy, Utilities and Industrial Branch; Jason Winborn, AT&T; Paula Barnett, BP America; Mark Harmon, Chesapeake Energy; Julie Williams and Steve Perry, Chevron; Martin Hubert, Citgo; Tom Sellers, ConocoPhillips; Gavin Massingill, Denbury Resources; Daniel Womack, Dow Chemical; Bill Oswald, Koch Companies; Lisa Hobbs, Texans for Lawsuit Reform; Stephanie Simpson, Texas Association of Manufacturers; Martha Landwehr, Texas Chemical Council; Mari Ruckel, Texas Oil and Gas Association; Thure Cannon, Texas Pipeline Association; Tricia Davis, Texas Royalty Council; Jay Brown, Valero Energy Corporation)

Against — Cyrus Reed, Lone Star Chapter Sierra Club; Phillip Goodwin, City of Houston Mayor's Office; John Dahill, Texas Conference of Urban Counties; Ryan Fite, Travis County Attorney's Office; (*Registered, but did not testify*: Tom Tagliabue, City of Corpus Christi, Corpus Christi Aquifer Storage and Recovery Conservation District; Sally Bakko, City of Galveston; James McCarley, City of Plano; Claudia Russell, El Paso County; Sandra Haverlah, Environmental Defense Fund; Myron Hess, National Wildlife Federation; Carol Birch, Public Citizen; Kelly Davis, Save Our Springs Alliance; Mark Mendez, Tarrant County; Rick Thompson, Texas Association of Counties; Elizabeth Doyel, Texas League of Conservation Voters; Steven Hernandez)

On — Bill Longley, Texas Municipal League; (*Registered, but did not testify*: Craig Pritzlaff and Patrick Sweeten, Office of the Attorney General; Donna Warndof, Harris County Commissioners Court; Caroline Sweeney, Texas Commission on Environmental Quality)

BACKGROUND:

Water Code, sec. 7.351 allows a local government to institute a civil suit in the same manner as the Texas Commission on Environmental Quality (TCEQ) in a district court by its own attorney for the injunctive relief, civil penalty, or both against a person who committed or threatens to commit a violation of certain rules or laws overseen by TCEQ. An affected person also may bring suit in this manner for a violation related to nuclear or radioactive materials.

Sec. 7.357 allows a local government to bring suit in the county in which an alleged violation occurred if TCEQ does not have a suit filed within 121 days of the date a written complaint is filed.

DIGEST:

CSHB 2533 would require a local government or affected person to provide the attorney general and executive director of the Texas Commission on Environmental Quality (TCEQ) written notice of alleged violations before instituting a claim against a person who violated certain rules and regulations under TCEQ, as well as the specific relief sought and the facts supporting the claim.

A local government or affected person could institute a civil suit at least 90 days after the agencies received the notice unless TCEQ or the attorney general commenced a proceeding or civil suit concerning at least one of the alleged violations before that time.

If a local government or affected person discovered a violation that was within 120 days of the expiration of the statute of limitations, it could institute a civil suit at least 45 days after the agencies received the notice, unless the attorney general commenced a civil suit before that time. Notice would have to be provided by certified mail or hand delivered to the chief of the division of the attorney general's office responsible for environmental claims for this reduced notice and review period.

The bill would repeal Water Code, sec. 7.357.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017, and would apply only to a violation that occurred on or after that date.

SUPPORTERS SAY:

CSHB 2533 would reduce unnecessary and redundant environmental enforcement actions brought by local governments by allowing the state to review proposed local action before proceeding. The state should take the lead on these actions because city and county actions can be contrary to statewide enforcement policies.

Local governments still could institute a suit if the attorney general or TCEQ declined to bring a suit. The bill also would shorten the notice and review period to 45 days for violations that face an expiring statute of limitations, allowing cities and counties to respond more quickly.

OPPONENTS SAY:

CSHB 2533 would prevent cities and counties from responding quickly to emerging local environmental problems by requiring them to submit notice of violations to the attorney general and TCEQ before proceeding. Assistance from local governments also would allow state resources to be utilized more efficiently.

NOTES:

According to the Legislative Budget Board’s fiscal note, the bill would have a positive impact of $362,000 through fiscal 2018-19.

The committee substitute differs from the bill as filed by:

- repealing language allowing the attorney general or executive director of TCEQ to deny a request to pursue a civil suit; and
- reducing the approval period to 45 days after a notice is received for alleged violations within 120 days of the statute of limitations.

SUBJECT: Basing conditions of community supervision on risk assessments

COMMITTEE: Corrections — committee substitute recommended

VOTE: 6 ayes — White, Allen, S. Davis, Romero, Sanford, Tinderholt

1 nay — Schaefer

WITNESSES: For — Zenobia Joseph; Reginald Smith, Communities for Recovery; Douglas Smith, Texas Criminal Justice Coalition; (*Registered, but did not testify*: Katy Reagan, Alliance for Safety & Justice; Nicholas Hudson, American Civil Liberties Union of Texas; Chas Moore, Austin Justice Coalition; Lauren Oertel, Austin Justice Coalition; Annette Price, Austin/Travis County Reentry; Kathryn Freeman, Christian Life Commission; Traci Berry, Goodwill Central Texas; Latosha Taylor, Grassroots Leadership; Will Francis, National Association of Social Workers - Texas Chapter; Jorge Renaud, Texas Advocates for Justice; Cathy DeWitt, Texas Association of Business; Lori Henning, Texas Association of Goodwills; Trey Owens, Texas Criminal Justice Coalition; Rebecca Bernhardt, Texas Fair Defense Project; Greg Glod, Texas Public Policy Foundation; William Kelly)

Against — (*Registered, but did not testify*: Bill Lewis, Mothers Against Drunk Driving)

On — Ruben Gonzalez, 432nd Judicial District Court; Leighton Iles, Tarrant County CSCD; Manny Rodriguez, Texas Department of Criminal Justice

BACKGROUND: Code of Criminal Procedure 42A.301 gives judges authority to set conditions of community supervision (probation). Judges can impose any reasonable condition designed to protect or restore the community, protect or restore the victim, or punish, rehabilitate, or reform the defendant.

DIGEST: CSHB 2883 would require that conditions of probation imposed by judges be based on the results of a risk and needs assessment of the defendant. The assessment would have to done using an instrument that was

validated to assess the risk and needs of a defendant placed on probation.

The conditions imposed by judges could not be duplicative of another condition. When determining conditions, judges would have to consider the extent to which a condition impacted a defendant's work, education, and community service schedules or obligations and their ability to meet financial obligations.

Before requiring defendants to receive certain types of treatment, judges would have to consider the results of an evaluation done to determine the appropriate type and level of treatment to address a defendant's alcohol or drug dependency. This would have to be done before judges could require that a defendant receive treatment in a state-funded substance abuse treatment program, a substance abuse felony program operated by the Texas Department of Criminal Justice, or a program provided while in a community corrections facility.

The bill would take effect September 1, 2017, and would apply to defendants placed on probation on or after that date.

SUPPORTERS SAY:

CSSB 2883 would promote public safety and improve rehabilitation of offenders by ensuring that judges considered risk assessments when setting conditions of probation. Excessive or inappropriate conditions can hinder rehabilitation and make it hard for defendants to meet the terms of their probation. Use of risk assessments by judges when setting conditions would ensure departments identify and address specific factors that relate to individuals and would help funnel resources to the proper areas. Ensuring that conditions are non-duplicative and take into consideration probationers work, education, and community service schedules would help defendants successfully complete probation and become rehabilitated. Many entities may already be using risk assessment that meet the bill's guidelines, and CSHB 2883 would help make sure that these best practices occur statewide.

CSHB 2883 would not infringe on judicial discretion in setting probation conditions. The bill would require only that judges base decisions on a risk assessment and that judges consider other factors in probationers' lives, such as work schedules. Judges would retain discretion to set and

change conditions and to consider all relevant information.

OPPONENTS SAY:

CSHB 2883 could possibly infringe on judges' discretion to order conditions of probation. Full discretion is important to ensure that the conditions imposed on defendants are appropriate and take into account all relevant factors. A judge may feel that certain conditions are appropriate and necessary given a defendant's background, offense, or other factors, even if not based on a risk assessment. In other cases, a plea agreement may have been reached that included a condition not indicated by an assessment.

NOTES:

A Senate companion, SB 1584 by Garcia, was approved by the Senate on April 27 and reported favorably from the House Corrections Committee on May 2.

SUBJECT: Addressing outdated requirements relating to driver's and learner licenses

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 8 ayes — Nevárez, Burns, Hinojosa, Holland, J. Johnson, Metcalf, Schaefer, Wray

0 nays

1 absent — P. King

WITNESSES: For — None

Against — None

On — (*Registered, but did not testify*: Skylor Hearn, Texas DPS)

BACKGROUND: Transportation Code, ch. 521 governs driver's licenses and certificates. Sec. 521.222 governs instruction permits for persons between 15 and 18 years of age that meet certain requirements. The Department of Public Safety (DPS) also is allowed to issue a permit to certain persons 18 years of age or older.

Sec. 521.121 requires a driver's license to include:

- a color photograph of the entire face of the holder;
- the full name and date of birth of the holder;
- a brief description of the holder; and
- the license holder's residence address, except for certain persons.

Sec. 521.1211 establishes that for driver's licenses of peace officers, an address in the municipality or county of the officer's residence is used instead of the address of license holder's actual residence.

Sec. 521.050 allows DPS to sell a magnetic tape of the names, addresses, and dates of birth of all license holders contained in the department's basic driver's license record file to an approved purchaser.

Some have noted that there are a number of issues relating to driver's licenses and instruction permits that are outdated and should be addressed.

DIGEST:

HB 3050 would make certain changes relating to driver's licenses and instruction permits.

Learner license. The bill would rename an instruction permit as a learner license and amend Government Code, ch. 521 to conform with the change. Provisions allowing for an instruction permit for certain persons over 18 years of age would be repealed, as would a provision that does not require an instruction permit to include a photograph.

Photograph on driver's license. The photograph on a driver's license would not have to be in color.

Driver's license for peace officer. Provisions relating to driver's licenses of peace officers would be extended to special investigators. For these licenses, DPS also could use an address in the county where the officer was employed instead of the address of his or her actual residence.

Sale of license information. In selling driver's license information, DPS could provide the information in any format prescribed by the department that was acceptable to the purchaser, rather than on a magnetic tape.

Disclosure of abstract record. The bill would repeal a provision prohibiting an abstract of a driving record or a statement that a record does not exist from being marked as certified if released through DPS' interactive system containing driving record information.

The bill would take effect September 1, 2017, and would apply only to a driver's license issued or renewed on or after that date.

SUBJECT: Authorizing grants to counties that monitor certain defendants

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Moody, Hunter, Canales, Gervin-Hawkins, Hefner, Lang, Wilson

0 nays

WITNESSES: For — Inna Klein, Nueces County; David Stith, State District Judge Nueces County; Frances Wilson, Women's Shelter of South Texas; (*Registered, but did not testify*: Todd Harrison and Chris Jones, Combined Law Enforcement Associations of Texas (CLEAT); Tiana Sanford, Montgomery County District Attorney's Office; Jimmy Rodriguez, San Antonio Police Officers Association; John Dahill, Texas Conference of Urban Counties; Aaron Setliff, Texas Council on Family Violence; Joseph Green, Travis County Commissioners Court; Thomas Parkinson)

Against — None

On — Camille Cain, Criminal Justice Division, Office of the Governor

BACKGROUND: Observers have noted that while global positioning monitoring system monitoring of defendants in family violence cases can prevent tragedies, the expense can significantly strain county budgets.

DIGEST: CSHB 3655 would require the Criminal Justice Division of the Office of the Governor (CJD) to create a grant program that would reimburse counties for all or part of the costs incurred as a result of monitoring defendants and victims in cases involving family violence through a global positioning monitoring system. CJD could use any available revenue source to fund the grants.

As part of the grant program, CJD would be required to establish:

- eligibility requirements for grant applicants;
- grant application procedures;

- guidelines for grant amounts;
- procedures for evaluating applications; and
- procedures for monitoring the use of grants and ensuring compliance with any conditions.

CJD would include detailed performance results of the grant program in its biennial report to the Legislature.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

NOTES:

The Legislative Budget Board's fiscal note estimates CSHB 3655 would have a negative impact to general revenue related funds of $2.8 million in fiscal 2018-19 and $1.4 million per year thereafter.

SUBJECT: Requiring notices for certain alternative housing program applications

COMMITTEE: Corrections — committee substitute recommended

VOTE: 7 ayes — White, Allen, S. Davis, Romero, Sanford, Schaefer, Tinderholt

0 nays

WITNESSES: For — Jeanette Rash; Anibeth Turcios (*Registered, but did not testify*: Jessica Anderson, Houston Police Department; Jaime Puente)

Against — None

On — Douglas Smith, Texas Criminal Justice Coalition; Pamela Thielke, Texas Department of Criminal Justice-Parole Division

BACKGROUND: Concerns have been raised about a lack of notice provided when programs that house releasees (individuals on parole or community supervision) open a new location in an area near schools or day-care facilities.

DIGEST: CSHB 3697 would require providers applying to participate in a Texas Department of Criminal Justice (TDCJ) program to provide alternative housing for five or more unrelated releasees to mail notices to each public school, including open-enrollment charter schools, private schools, or day-care facilities located within 1,000 feet of a proposed alternative housing location. The applicant would be required to submit with the application a list of each school or facility provided notice and an affidavit of the applicant stating that notice had been sent. TDCJ would be required to update its application forms as necessary by December 1, 2017.

The bill would take effect September 1, 2017, and would apply only to applications submitted on or after January 1, 2018.

NOTES: A companion bill, SB 1853 by Garcia, was referred to the Senate Criminal Justice Committee on March 23.

SUBJECT: Transferring jurisdiction of French Legation to the Historical Commission

COMMITTEE: Culture, Recreation and Tourism — favorable, without amendment

VOTE: 7 ayes — Frullo, Faircloth, D. Bonnen, Fallon, Gervin-Hawkins, Krause, Martinez

0 nays

WITNESSES: For — John Nau, Texas Historical Commission; Martha George Withers; (*Registered, but did not testify*: Jim Brennan, Texas Coalition of Veterans Organizations; John Shepperd)

Against — Betty Edwards, Daughters of the Republic of Texas

On — Harvey Hilderbran, Texas Facilities Commission; Mark Wolfe, Texas Historical Commission

BACKGROUND: Government Code, sec. 442.072(a) lists certain historical sites and parks that are under the jurisdiction of the Texas Historical Commission.

DIGEST: HB 3810 would transfer custodial jurisdiction of the French Legation from the Texas Facilities Commission (TFC) to the Texas Historical Commission. The bill also would remove the authorization for the Daughters of the Republic of Texas (DRT) to use and operate the French Legation for its purposes. The Historical Commission would be responsible for the preservation, maintenance, and restoration of the French Legation and its contents, as well as the protection of the historical and architectural integrity of the exterior, interior, and grounds.

The bill would require any power or duty formerly vested in another state entity or agency related to the French Legation to be solely vested to THC.

Other historical sites, including the Sam Rayburn House State Historic Site, the National Museum of the Pacific War, and the Mission Dolores State Historic Site would be added to those under the Historical

Commission's jurisdiction under Government Code, ch. 442.072(a).

The bill would require DRT to work with TFC on or as soon as practicable after the bill's effective date to take a complete inventory of personal property and fixtures located at the French Legation, including each item's origin and current ownership as agreed to by the DRT and the TFC. Upon completion of the inventory, DRT would be allowed a reasonable amount of time to remove its personal property and fixtures. The bill would require any dispute over ownership of personal property and fixtures to be resolved through alternative dispute resolution. The bill also would authorize the DRT to transfer its property to the Historical Commission.

Upon taking effect, the bill would transfer all DRT powers and duties, state-owned assets, and files and records relating to the French Legation to the Texas Historical Commission. It also would transfer all powers and duties, files and records, contracts, and appropriated funds of TFC relating to the French Legation to the Historical Commission on the effective date.

The bill would require the DRT to transfer any money held in trust relating to the French Legation to the Historical Commission for use in the management of the Legation House. The bill also would revoke the DRT's authority to charge admission to state property.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

HB 3810 would help improve the poor condition of the French Legation in Austin, which has a number of pressing conservation issues, including the need for new paint and to resolve electrical, mechanical, plumbing, and structural framing issues. The Texas Historical Commission is better equipped to address these issues and to improve the presentation and experience of visitors to the French Legation than the Daughters of the Republic of Texas, which does not have the necessary experience or expertise for property management.

The bill would ensure that needed restorations to the French Legation were not delayed any longer and that it would be funded sufficiently to continue to be open to the public on a regular basis. The French Legation

has been periodically closed to the public in the past year due to staff layoffs related to funding issues.

The bill would transfer custodianship from the Facilities Commission to the Historical Commission, both of which operate through state appropriations and are subject to Sunset review.

OPPONENTS SAY:

HB 3810 could leave the long-term custodianship of the French Legation uncertain by transferring management from DRT to the Texas Historical Commission, which could cease to exist if it were abolished through Sunset review or lost legislative funding. The commission also could redirect funding for the French Legation to another historical site or program or project unrelated to the preservation of the French Legation.

NOTES:

Floor amendment. The bill's author plans to offer a floor amendment that would allow the Texas Historical Commission to solicit and accept gifts, donations, and grants of money or property to manage the French Legation. It also would require that the commission only use money or property acquired by gifts, donations, and grants for funding the preservation, maintenance, and restoration of the French Legation during fiscal 2018-19.

The amendment would allow the Historical Commission to enter into an agreement with the Daughters of the Republic of Texas regarding the management, staffing, operation, and financial support of the French Legation.

Fiscal note. The Legislative Budget Board's fiscal note estimates that HB 3810 would cost $816,653 in general revenue related funds for fiscal 2018-19 in staff and maintenance costs related to the French Legation.

Companion. A companion bill, SB 2005 by Watson, was reported favorably by the Senate Business and Commerce Committee on May 5 and recommended for the local and uncontested calendar.

SUBJECT: Creating a public financing program for school district equipment

COMMITTEE: Public Education — committee substitute recommended

VOTE: 9 ayes — Huberty, Bernal, Deshotel, Dutton, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

2 absent — Allen, Bohac

WITNESSES: For — Tracy Ginsburg, Texas Association of School Business Officials; Colby Nichols, Texas Rural Education Association; (*Registered, but did not testify*: Barry Haenisch, Texas Association of Community Schools; Amy Beneski, Texas Association of School Administrators; Dax Gonzalez, Texas Association of School Boards)

Against — None

On — Lee Deviney, Texas Public Finance Authority; (*Registered, but did not testify*: Kara Belew, Von Byer, and Leonardo Lopez, Texas Education Agency; Kevin Van Oort, Texas Public Finance Authority)

BACKGROUND: The Texas Public Finance Authority was created in 1984 by the Legislature to provide financing for the construction or acquisition of facilities for state agencies.

DIGEST: CSHB 3438 would establish a school district equipment and improvement fund as a trust fund established outside the treasury and administered by the comptroller. The fund would consist of proceeds from obligations issued by the Texas Public Finance Authority (TPFA), and obligations could not exceed $100 million at any one time.

School districts could borrow money from the TPFA and as necessary in connection with obtaining those loans or other financial assistance:

- issue bonds and notes for terms not to exceed 15 years; and

- enter into loan or lease agreements, lease purchase agreements, or other appropriate financing agreements with the TPFA.

Money in the equipment and improvement fund could be spent without appropriation only to fund eligible activities or to secure repayment of TPFA obligations. Interest and income from fund assets would be credited to the fund.

The obligations would be backed by the Permanent School Fund and could be used to:

- finance loans to eligible school districts for certain purposes;
- the purchase by TPFA of vehicles, equipment, or appliances for sale, lease, or lease purchase to eligible school districts;
- a lease or other agreement that concerns equipment that an eligible school district had purchased or leased or intended to purchase or lease; and
- costs associated with maintenance, repair, rehabilitation, or renovation of eligible school facilities.

A district would be allowed to make payments on an obligation or agreement issued by the TPFA using any available funds, including maintenance and operations tax revenue. A district could secure the payment of an obligation or agreement through a lien against equipment obtained through the program, imposing an ad valorem tax otherwise authorized by law, or obtaining credit under the intercept credit enhancement program in Education Code, ch. 45, subch. I.

The TPFA could use proceeds from issued obligations to:

- enter into loan or lease agreements, lease purchase agreements, or other appropriate financing agreements with eligible districts;
- purchase obligations issued by eligible districts; and
- enter into credit agreements and exercise other powers granted to issuers under Government Code, ch. 1371.

Rules. The TPFA board of directors would be required to adopt rules in

consultation with the Commissioner of Education to administer the program, including eligibility requirements for districts, eligible purchases, and eligible school facilities.

The State Board of Education would be authorized to adopt rules to facilitate the guarantee of bonds issued by the TPFA. The rules must provide for Education Code requirements pertaining to a default in the payment of bonds in a manner that provided for the withholding of state aid that would otherwise be paid to the district on whose behalf the TPFA issued its bonds.

Expiration. The TPFA could not issue an obligation under the program on or after September 1, 2021 unless it applied to refunding bonds issued under the program or other obligations issued to refinance obligations incurred under the program before September 1, 2021.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

CSHB 3438 would help school districts finance capital needs by leveraging the financial strength of the state of Texas. It would provide an additional financing tool to help schools make major purchases such as buses and appliances or upgrade and repair facilities. Under the program, the Texas Public Finance Authority (TPFA) would borrow money to pay for a district's equipment by issuing tax-exempt revenue commercial paper notes. Eligible districts would enter into a lease or loan agreement with the TPFA, which would use the lease payments to repay the principal and interest on the notes. When the lease was fully paid, the district would receive title to the equipment.

The program would lower schools' borrowing costs compared to a vendor lease. It could particularly help smaller districts that may have limited access to capital markets.

While the bill would authorize districts to borrow money from TPFA, districts already have authority to finance these items through other sources, including property taxes. The bill would provide a less expensive option for districts to borrow money for equipment. Creating the fund outside of the state treasury would allow TPFA to execute the transactions

without needing legislative appropriations.

The Permanent School Fund guarantee is the key to allowing TPFA to finance equipment at below-market rates. If a district would default on a payment, an amount of state aid equal to the default would be withheld from the district.

OPPONENTS SAY:

CSHB 3438 would increase public debt at a time of growing local debt. It could lead to higher taxes if districts needed to raise additional funds to make their equipment lease or loan payments to the TFPA. Because the fund would be guaranteed by the Permanent School Fund, the state would be responsible for payment in the event a district defaulted on an agreement. The bill is inconsistent with limited government principles by dedicating funds outside of the state treasury and without legislative appropriation.

NOTES:

The Legislative Budget Board estimates the bill would have an administrative cost of $133,158 in fiscal 2018 and $130,958 in subsequent years for salary and related costs for one FTE to implement the program at the Texas Public Finance Authority.

SUBJECT: Revising step therapy protocol requirements for a health benefit plan

COMMITTEE: Insurance — committee substitute recommended

VOTE: 9 ayes — Phillips, Muñoz, R. Anderson, Gooden, Oliverson, Paul, Sanford, Turner, Vo

0 nays

WITNESSES: For — Ann Bass; Sheldon Metz; (*Registered, but did not testify*: Blake Hutson, AARP Texas; Audra Conwell, Alliance of Independent Pharmacists of Texas; Jim Arnold, American Cancer Society Cancer Action Network; Joel Romo, American Diabetes Association; Denise Rose, AstraZeneca; Christine Bryan, Clarity Child Guidance Center; Chase Bearden, Coalition of Texans with Disabilities; Reginald Smith, Communities for Recovery; Jordan Williford, Epilepsy Foundation; Christine Yanas, Methodist Healthcare Ministries of South Texas; Deborah Rosales-Elkins, Greg Hansch, National Alliance on Mental Illness-Texas; Gwendolyn Quintana, National Alliance on Mental Illness-Austin Affiliate Advocacy Committee; Will Francis, National Association of Social Workers-Texas Chapter; Simone Nichols-Segers, National MS Society; Amber Pearce, Pfizer; John Heal, Pharmacy Buying Association d/b/a Texas TrueCare Pharmacies; Adriana Kohler, Texans Care for Children; Dan Hinkle, Texas Academy of Family Physicians; Stephanie Simpson, Texas Association of Manufacturers; Michael Grimes, Texas College of Emergency Physicians; Bradford Shields, Texas Federation of Drug Stores; Thomas Kowalski, Texas Healthcare and Bioscience Institute; Duane Galligher, Texas Independent Pharmacies Association; Clayton Stewart, Texas Medical Association; Rachael Reed, Texas Ophthalmological Association; BJ Avery, Texas Optometric Association; Tommy Lucas, Texas Optometric Association; David Reynolds, Texas Osteopathic Medical Association; Clayton Travis, Texas Pediatric Society; Justin Hudman, Texas Pharmacy Association; Jenna Courtney, Texas Radiological Society; Bonnie Bruce, Texas Society of Anesthesiologists; Greg Herzog, Texas Society of Gastroenterology and Endoscopy and Texas Neurology Society; Price Ashley, Texas Society of Pathologists; Hilda Correa; Carol Daley)

Against — None

On — Michael Harrold, Express Scripts; Melodie Shrader, Pharmaceutical Care Management Association; Abigail Stoddard, Prime Therapeutics; (*Registered, but did not testify*: Wendy Wilson, Prime Therapeutics; Jamie Walker, Texas Department of Insurance)

BACKGROUND: Step therapy is a coverage rule for certain health benefit plans with prescription benefits that requires a patient to first try one or more similar, lower cost drugs before the plan will cover the prescribed drug. Interested observers contend that health insurance plans' exception criteria and appeal procedures for step therapy may not be sufficiently consistent or accessible for patients and prescribing health providers.

DIGEST: CSHB 1464 would require a health benefit plan issuer to establish a user-friendly process through which a provider could request an exception from a health plan's required step therapy protocol. A step therapy protocol is defined as a protocol that required an enrollee to use a prescription drug or sequence of prescription drugs other than the drug that the enrollee's physician recommended for the enrollee's treatment before the health plan would provide coverage for the recommended drug.

The bill would require the exception request process to be readily accessible to a patient and prescribing provider in the health benefit plan's formulary document and otherwise. To make a request, the prescriber would submit a written request to the health plan issuer on a standardized form prescribed by the commissioner of insurance.

Under the bill, a health plan issuer would be required to grant a request for an exception to the step therapy protocol if the request included the prescribing provider's written statement and supporting documentation stating that:

- the drug required under the step therapy protocol was contraindicated, would likely cause a physical or mental adverse reaction, or was expected to be ineffective based on the known clinical characteristics of the patient and the drug regimen;

- the patient had previously discontinued taking the protocol-required drug, or another drug in the same pharmacologic class or with the same mechanism of action, while covered by a health plan, because the drug was not effective, had diminished effect, or there was an adverse event;
- the protocol-required drug was not in the best interest of the patient, based on clinical appropriateness or other reasons specified in the bill; or
- the patient had been prescribed the drug, was stable on the drug, and the change in the patient's prescription drug regimen required by the step therapy protocol was expected to be ineffective or cause harm to the patient based on certain characteristics specified in the bill.

The health plan issuer would have 72 hours to deny a received exception request before the request would be considered granted. If the exception request stated that the prescribing provider reasonably believed the denial could result in probable death or serious harm, the exception request would be considered granted after 24 hours. Denial of an exception request would be considered an adverse determination that could be appealed. Health care providers deciding the appeal would be required to take into consideration atypical diagnoses and the needs of atypical patient populations.

A health plan issuer that required a step therapy protocol before providing coverage for a prescription drug would be required to establish, implement, and administer the step therapy protocol in accordance with clinical review criteria, as defined by the bill, that were readily available to the health care industry. The health benefit plan issuer would be required to take into account the needs of atypical patient populations and diagnoses in establishing the clinical review criteria. The bill would define the term "clinical review criteria" and would specify what the criteria would include.

The bill would require the standards adopted by the commissioner of insurance for independent review organizations to require each organization to make the organization's determination for a review of a step therapy protocol exception request within a certain time frame.

The bill would take effect September 1, 2017, and would apply only to a health benefit plan that was delivered, issued for delivery, or renewed on or after January 1, 2018.

NOTES:

A companion bill, SB 680 by Hancock, was reported favorably by the House Insurance Committee on May 2.

SUBJECT: Allowing Houston to establish homestead preservation districts

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 6 ayes — Alvarado, Leach, Bernal, Elkins, Isaac, J. Johnson

0 nays

1 absent — Zedler

WITNESSES: For — Joseph Crawford, City of Houston Mayor's Office; (*Registered, but did not testify*: Jesse Ozuna, City of Houston Mayor's Office; Matt Hull, Texas Association of Community Development Corporations; Charlie Duncan, Texas Low Income Housing Information Service; Aimee Mobley Turney)

Against — None

BACKGROUND: The 79th Legislature in 2005 enacted HB 525 by Rodriguez, allowing certain cities to establish homestead preservation districts. These districts are designed to promote a city's ability to increase home ownership, provide affordable housing, and prevent low-income and moderate-income homeowners living in disadvantaged neighborhoods from losing their homes.

Under Local Government Code, ch. 373A, which was added by HB 525, eligible cities may create a homestead preservation reinvestment zone to develop or redevelop affordable housing. A city that designates a homestead preservation district also may provide tax-exempt bond financing, density bonuses, or other incentives to increase the supply of affordable housing and maintain the affordability of existing housing for low-income and moderate-income families.

Some have suggested providing Houston with more tools to prevent the displacement of low-income and moderate-income families in neighborhoods with rapidly increasing home values.

DIGEST:

HB 3919 would allow the City of Houston to create homestead preservation districts and reinvestment zones.

To be designated as a homestead preservation district or reinvestment zone within Houston, an area would have to be composed of census tracts forming a spatially compact area. Houston City Council also would be required to determine that:

- the area would benefit from the inclusion of low-income households;
- low-income and moderate-income homeowners within the area were at the risk of losing their homesteads through displacement; and
- the designation would serve one or more purposes of homestead preservation districts and reinvestment zones outlined in Local Government Code, ch. 373A.

The bill would take effect September 1, 2017.

SUBJECT: Raising personal needs allowance for residents of long-term care facilities

COMMITTEE: Human Services — favorable, without amendment

VOTE: 7 ayes — Raymond, Frank, Miller, Minjarez, Rose, Swanson, Wu

0 nays

2 absent — Keough, Klick

WITNESSES: For — Jennifer Allmon, Texas Catholic Conference of Bishops; (*Registered, but did not testify*: Amanda Fredriksen, AARP; Lee Spiller, Citizens Commission on Human Rights; Katija Gruene, Green Party of Texas; Eric Kunish, National Alliance on Mental Illness; Will Francis, National Association of Social Workers-Texas Chapter; Jamie Dudensing, Texas Association of Health Plans; Scot Kibbe, Texas Health Care Association; Julie Wheeler, Travis County Commissioners Court; James Thurston, United Ways of Texas; Leticia Caballero; Sacha Jacobson; Danielle King; Sara Metzgar)

Against — None

On — (*Registered, but did not testify*: David Cook, Health and Human Services Commission)

BACKGROUND: Human Resources Code, sec. 32.024(w) requires the executive commissioner of the Health and Human Services Commission to set a personal needs allowance of at least $60 per month for a resident of a nursing home or other long-term care facility who receives Medicaid.

Some observers have noted that this monthly allowance may be insufficient to meet the needs of long-term care facility residents as the cost of goods and services has risen since the allowance was last adjusted by the Legislature.

DIGEST: HB 1622 would require the executive commissioner of the Health and Human Services Commission to raise to at least $75 per month the

personal needs allowance for residents of long-term care facilities who receive Medicaid.

If, before implementing any provision of the bill, a state agency determined that a waiver or authorization from a federal agency was necessary, the affected agency would be required to request the waiver or authorization and could delay implementing that provision until the waiver or authorization was granted.

The bill would take effect September 1, 2017, and would apply only to a personal needs allowance paid on or after that date.

NOTES:

According to the Legislative Budget Board's fiscal note, the bill would have a negative impact to general revenue related funds of $12.8 million in fiscal 2018-19 and about $6.5 million per year thereafter.